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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|---|-------------|----------------------|---------------------|------------------|
| 10/774,012 | 02/06/2004 | Mark Jenkins | ELK5406.01A1 | 8426 |
| 8156 | 7590 | 09/21/2005 | EXAMINER | |
| JOHN P. O'BANION O'BANION & RITCHIE LLP 400 CAPITOL MALL SUITE 1550 SACRAMENTO, CA 95814 | | | EL ARINI, ZEINAB | |
| | | ART UNIT | | PAPER NUMBER |
| | | | | 1746 |

DATE MAILED: 09/21/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

| | | | |
|------------------------------|------------------------|---------------------|--|
| Office Action Summary | Application No. | Applicant(s) | |
| | 10/774,012 | JENKINS, MARK | |
| | Examiner | Art Unit | |
| | Zeinab E. EL-Arini | 1746 | |

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) Responsive to communication(s) filed on 23 August 2005.
- 2a) This action is FINAL. 2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) Claim(s) 1-42 is/are pending in the application.
 - 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) Claim(s) 12,15,20-24,30-33,35-40 and 42 is/are allowed.
- 6) Claim(s) 1-6, 8-11,13,14,16-19,25-29,34 and 41 is/are rejected.
- 7) Claim(s) 7 is/are objected to.
- 8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on _____ is/are: a) accepted or b) objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 - a) All b) Some * c) None of:
 1. Certified copies of the priority documents have been received.
 2. Certified copies of the priority documents have been received in Application No. _____.
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____. |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date <u>11/20/04, 2/6/04</u> . | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| | 6) <input type="checkbox"/> Other: _____. |

DETAILED ACTION

Election/Restrictions

Applicant's election without traverse of Group I, claims 1-42 in Paper No. 8/23/05 is acknowledged.

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 2-6, 8-11, 13-14, 16-19, 25-29, 34, and 41 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

In claim 2, line 2, "and/or" is indefinite term.

In claim 3, line 2, "means" lacks antecedent basis, because it is not clear if means refers to means for preventing hardening---- or to any means.

In claims 4 and 5, line 2, "the interior" lacks antecedent basis.

In claim 8, line 4, "the unloading" lacks antecedent basis.

In claim 9, line 2, "vehicle ramp" lacks antecedent basis.

In claim 10, lines 1-2, "means for articulating" lacks antecedent basis.

In claim 11, line 2, "the bottom" lacks antecedent basis.

In claims 13, 14, and 41, line 2, “the interior” lacks antecedent basis.

In claim 16, line 4, “the wheels” lacks antecedent basis.

In claim 17, line 2, “and/or” is indefinite term.

In claims 19 and 25, line 2, “the bottom” lacks antecedent basis.

In claim 27, line 2, “the wheels” lacks antecedent basis.

In claim 34, line 4, “the vertical clearance” lacks antecedent basis.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1, 3 and 6 are rejected under 35 U.S.C. 102(b) as being anticipated by Sharp (6,283,909).

Sharp discloses container for hazardous medical waste material, comprising a container body having a plurality of inner wall surfaces, and liner for preventing hardening materials from adhering to said inner walls surfaces of said container. See (Fig. 2), col. 3, lines 42-59, and col. 5, lines 50-53.

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-6 are rejected under 35 U.S.C. 102(b) as being anticipated by Salomone et al. (5,387,736). Salomone et al. disclose a container having a plurality of inner wall surfaces, and liner for preventing hardening materials from adhering to the inner walls surfaces of the container. See col. 1, lines 20-33.

Allowable Subject Matter

1. Claim 7 is objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

2. Claims 8-11, and 25-29 would be allowable if rewritten to overcome the rejection(s) under 35 U.S.C. 112, 2nd paragraph, set forth in this Office action and to include all of the limitations of the base claim and any intervening claims.
3. Claims 12, 15, 20-24, 30-33, 35-40, and 42 are allowed.
4. The following is a statement of reasons for the indication of allowable subject matter: The prior art of record failed to teach an apparatus for collecting waste concrete, comprising a container having a plurality of inner wall surfaces lined with a material to which hardened concrete will not adhere, and a pair of vehicle ramps coupled to one end, or side, of said container as claimed.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Zeinab E. EL-Arini whose telephone number is (571) 272-1301. The examiner can normally be reached on Monday-Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Michael Barr can be reached on (571) 272-1414. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Application/Control Number:
10/774,012
Art Unit: 1746

Page 9

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Zeinab El-Arini
Zeinab E. EL-Arini
Primary Examiner
Art Unit 1746

ZEE
009/16/05